

PROVIDING FOR AN INDIAN PROGRAM FOR CONSTRUCTION AND FINANCING OF HOUSING FOR INDIANS, AND FOR OTHER PURPOSES

OCTOBER 1 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. COHEN, from the Select Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 2847]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2847) to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

The amendment is as follows:

On page 36, line 21, strike all the words following "of this Act." through page 37, line 5, "provisions of this Act."

PURPOSE

S. 2847, The Indian Housing Act of 1972, provides for the creation of a comprehensive Indian housing program to be located in the Bureau of Indian Affairs, within the Department of Interior, which would provide financial assistance to Indian tribes for the repair, renovation, acquisition or construction of safe, sanitary, and decent housing for Indian families.

BACKGROUND AND NEED

Since the early 1960's the primary source of housing assistance for Indian tribes has been the HUD public assistance housing program. Although great strides have been made towards improving the quality of shelter for Indian families, current Bureau of Indian Affairs' figures indicate that 43 percent of Indian housing is in substandard condition as compared with only 12 percent for the rest of the Nation.

There exists three primary reasons why Indian housing is in such a deplorable state: (1.) Unemployment and poverty is extremely widespread on most Indian reservations. The majority of Indian families live at or below the poverty level, with unemployment rates of 50 percent or more. Affordable housing is virtually non-existent for the majority of Indian families; (2.) Indian reservations are remote and geographically isolated, thus compounding the lack of housing. The unavailability of mortgages in rural areas is even more pronounced on Indian reservations and trust lands. The problem of inadequate housing is complicated by the lack of support facilities such as water, sanitation, and roads; and (3.) the trust or restricted status of Indian lands makes conventional home financing, even with federal subsidies or guarantees unrealistic, if not impossible.

S. 2847 creates programs designed to meet the housing needs of three identified income levels on Indian reservations. Title I would provide a statutory authority to the Bureau of Indian Affairs' Housing Improvement Program (HIP) which would make housing available to Indian families who have no ability to pay for their own housing or who, because of extreme geographic isolations or other extreme circumstances, simply cannot afford housing. The HIP program would simply provide these families with housing by a grant. It is estimated that between 20 and 30 per cent of Indian families would qualify for this category.

Title II of the bill would establish an Indian Housing Finance Fund to provide housing assistance to Indian families who, although they have some ability to pay for their housing, cannot realistically support a full mortgage. Families assisted under this section would be required to make payments to the tribe based upon their ability to pay. After administrative expenses, insurance premiums, and maintenance reserve charges are deducted from the payments, the balance would be placed in an Indian Housing Finance Fund to be available for other Indian tribes. Title II imposes sanctions on both the tribe and the individual for failure to make payments as they have agreed. This category would comprise approximately 70 percent of the total participants in the housing program under this bill.

Title III of the bill would provide housing assistance to that 10 percent or less of Indian families who have sufficient income to support an average house mortgage, but because of the trust or restricted status of their land cannot obtain a mortgage loan. The bill would provide a federal guaranty for loans to participants under this title.

LEGISLATIVE HISTORY

H.R. 5988, the companion bill to S. 2847, was introduced on March 30, 1982 by Representatives Udall, Kildee, Williams, and Santini, and referred to the Committee on Interior and Insular Affairs. After field and committee hearings in April and early May, the Committee ordered the bill reported out on May 19, 1982. No date has been set for floor action by the House. On August 17, 1982, S. 2847 was introduced by Senators Cochran, Andrews, Nickles, and Domenici, and referred to the Select Committee on Indian Affairs. The Select Committee held oversight hearings on September 22, 1982. A markup of the bill was held at a Committee business meeting on September 22, 1982, at which time the bill was ordered reported favorably, with an amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 29, 1982, the Select Committee on Indian Affairs, by unanimous vote and with a quorum present, recommended that the Senate pass S. 2847, as amended.

COMMITTEE AMENDMENTS

The Department of Justice has concluded that Section 407 of S. 2847, as introduced, is unconstitutional. In a letter to Morris Udall, Chairman of the House Committee on Interior and Insular Affairs, Robert A. McConnell, Assistant Attorney General for the U.S. Department of Justice indicated that the congressional selection of persons as provided for in Section 407 of H.R. 5988, the companion legislation to S. 2847, violates the principle of separation of powers as embodied in the Constitution and implicit in the Appointments Clause, Article II, section 2, clause 2. The Select Committee on Indian Affairs amended this section by deleting all references to selections and appointments of persons.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 provides that the Act may be cited as the "Indian Housing Act of 1982".

Section 2

Section 2 contains congressional findings and declarations concerning the state of Indian housing and the need for Federal assistance. The Committee notes that the declaration of policy that Indians should be assisted in obtaining decent, safe, and sanitary housing is not new. The 1937 National Housing Act, as supplemented by the 1949 Act, established that as a goal for all Americans.

Section 3

Section 3 defines various terms used in the bill.

Paragraph (1) defines "adjusted family income". The Committee expects that the Secretary would, by regulation, define gross family income for purposes of determining adjusted family income. Income not includable in gross income for Federal income tax purposes would not be includable in gross family income. In addition, adjustments, by regulation, would have to be made with respect to gross income earned from small family businesses, such as ranches or farms.

Paragraph (2) defines "amortization payment". The Committee intends that this definition be used as a basis for establishing the theoretical amortization schedule required in section 216.

Paragraph (5) defines "Indian" as being a member of an Indian tribe or an Indian as defined in section 19 of the Act of June 18, 1934. The second portion of the definition is merely meant to make clear that persons of one-half or more degree Indian blood and not members of tribes would be eligible for assistance under this program as intended in the 1934 Act.

Paragraph (9) defines "standard housing" by setting out broad, minimum standards of construction, heating, plumbing, electrical systems, and dwelling size which must be met in providing housing assistance under this legislation.

In adopting these broad minimum standards, it is the intent of the Committee to insure the maximum amount of flexibility to Indian tribes in developing the kind of housing which meets the economic, social, environmental, and cultural needs of its people. The Committee was advised that the application of the detailed, rigid, urban-oriented minimum property standards of the Department of Housing and Urban Development, in the existing Indian housing program, often resulted in expensive and inappropriate housing for Indians.

The Committee also intends that the standards be minimum standards and that tribes, within reason, have the flexibility of setting higher standards. The definition was further amended to require that housing developed be "modest in size and design". It is the intent of this amendment when coupled with the over-all philosophy of the bill that as much housing be developed as inexpensively as possible while meeting the minimum standards.

Finally, the definition was amended to permit the Secretary, in appropriate circumstances, to waive the minimum standards. In some cases, application of the minimum standards may not be practical or appropriate. For instance, the Committee is advised that the installation of plumbing in a house built for an Alaska Native on the permafrost of the Arctic North is either impossible or exorbitantly expensive. Also, certain Indian tribes, for religious reasons, might reject the use of electricity in their villages.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

Section 101

Subsection (a) provides for the establishment of a Housing Improvement Program.

Subsection (b) authorizes the Secretary to make grants or provide assistance to assist Indian families who simply cannot afford any payment for housing.

Subsection (c) provides that assistance under the HIP program shall be consistent with relevant tribal housing plans and, where the tribe requests, shall be made available through the tribe under agreements. In the absence of a tribal request, the Secretary is authorized to make the assistance available either directly to the individual, by contracting with a private firm or through the resources of the Bureau of Indian Affairs. Where the assistance is to be provided directly to an individual or family, the Committee expects that the Secretary would adopt appropriate safeguards to insure that funds are not misused or misspent.

Subsection (d) would permit a tribe, or tribal housing agency, providing the assistance under an agreement with the Secretary to assess a minimum charge against the assisted family with such assessment to be used by the tribe for housing-related purposes. While title I assistance is intended for those families who are practically destitute or who have no realistic ability to make any kind of house payments, this subsection was adopted by the Committee at the request of certain Indian tribes who wished to have the ability to assess a small charge against assisted families in the interest of individual pride. This assessment is discretionary with the tribe and may not be required by the Secretary.

Section 102

Subsection (a) provides that the assistance can be provided to make (1) emergency repairs to substandard housing, (2) major repairs to existing standard housing or substandard housing which can, economically, be placed in a standard condition, and (3) to construct or acquire standard housing.

Subsection (b) authorizes the Secretary to require insurance on housing developed under this title.

Section 103

Subsection (a) provides that the Secretary may not approve the sale of individual trust land or the lease of tribal land upon which a house developed with assistance under this title is located unless the provisions of section 104 are met.

Subsection (b) provides that the Secretary shall record a lien upon any fee lands upon which a house is developed with assistance under this title, setting out the encumbrance by section 104.

Section 104

Section 104 authorizes the sale of any house constructed, acquired, or repaired with funds under section 102(a) (2) or (3) of this title. However, the sale price must be at least the value of the assistance provided reduced by five per cent for twenty years. The minimum sale price is to be repaid to the United States and any balance would be the property of the assisted family.

Assistance provided under this title is a complete subsidy to families who are destitute or who have no practical means of paying for housing. While there is very little market for the sale of houses on Indian reservations, it is expected that houses developed under this title, as a subsidy, might be sold. This section, taken with section 103, is designed to prevent an undue windfall to an assisted family from such a sale.

Section 105

Section 105 authorizes appropriations for carrying out title I. Funds are authorized from fiscal year 1983 through fiscal year 1987.

TITLE II—INDIAN HOUSING FINANCE FUND

Section 201

Section 201 provides for the establishment of an Indian housing finance fund to provide financing to Indian tribes for construction, acquisition, or rehabilitation or standard housing for Indian families who have some ability to pay for housing, but who, because of limited income or other reasons, cannot obtain private financing.

Section 202

Section 202 provides that a tribe must prepare and submit a multi-year tribal housing plan to the Secretary for eligibility for financing under this title. The section sets out minimum factors to be dealt with in such report.

Section 203

Subsection (a) provides for the submission of applications from the tribes to the Secretary for funding under title II.

Subsection (b) establishes minimum criteria to be applied by the Secretary in evaluating applications for funding. The Committee adopted an amendment to this subsection to require the Secretary to determine if there is a reasonable prospect of repayment. It is not the intent of the Committee in adopting this amendment, to discriminate between poor tribes and, comparatively, more wealthy tribes. The Committee simply intends that the Secretary, as one factor, examine the overall ability and commitment of the tribe to meet the financial obligation assumed in a project agreement, particularly with respect to the collection of payments from assisted families.

Subsection (c) requires that the application contain a tribal designation of a tribal housing agency responsible for implementing the project agreement. The Committee intends that the tribal housing agency have the necessary power, authority, and structure to carry out the terms of the agreement, including commercial transactions.

Subsection (d) provides that the Secretary shall encourage, but may not require, multi-tribal applications for economy purposes.

Section 204

Section 204 provides that, after approval of an application, the Secretary and the tribal housing agency shall enter into a project agreement setting out the terms of the financing. Among other things, the agreement is to set out the minimum number of housing units to be developed with the funds allocated. It is the intent of this provision to provide an incentive to tribes to develop as many units as possible as inexpensively as they can within the overall minimum standards.

Section 205

Subsection (a) provides that the project agreement must set forth the ability and undertaking of the tribe and tribal housing agency to insure collections of amounts due from assisted families and the deposit of residual receipts in the Finance Fund. In addition, subsection (a) requires that the project agreement include a commitment by the tribe that it will subject its trust funds to attachment as provided in this section and require assisted families to agree that their trust funds will also be subject to attachment.

Subsection (b) provides that tribal trust funds may only be attached if it has failed to meet its financial obligations assumed in the agreement, the Secretary has exhausted all reasonable efforts to satisfy the default, and the Secretary has made a specific finding that the tribe has not acted in good faith in using its authorities and powers to collect from assisted families.

Subsection (c) provides that the Secretary, before attaching tribal or individual trust funds, must afford them due process procedures and appeals.

Subsection (d) provides that the Secretary may not deny housing assistance under this title on the grounds that a tribe or Indian family has no trust funds.

The Committee has authorized the attachment of trust funds, particularly tribal funds, with extreme reluctance. One of the severe criticisms of the operation of housing programs by Indian Housing Authorities under the HUD Public Housing program is that the tribes and housing authorities have been unable to insure collection of rents and housing payments assumed by assisted families and have

been less than willing to use the governmental authorities of the tribes to either force payment or require eviction. In order to meet this concern, the Committee has adopted the attachment of tribal trust funds, not primarily as a means of guaranteeing that repayments to the funds are made, but as an incentive to Indian tribes to use its own authorities, procedures, and forums to insure that assisted families make the payments which they have agreed to make. In doing so, the Committee has had to balance this interest with the trustee and fiduciary obligations of the United States to Indian tribes and individuals. Because of this need to balance competing interests, the Committee intends that the authority to attach trust funds be narrowly interpreted and sparingly applied.

Section 206

Subsection (a) provides that the Secretary shall make an initial disbursement from the project allocation in an amount not in excess of \$50,000 or 3 percent of the total amount for start up costs and preliminary planning and administration. Further disbursements from the fund under the project agreement would be made from the Secretary to the contractor developer of the assisted housing based upon completion of construction phases as provided in section 207. Completion is to be certified jointly by the agency and a person designated by the Secretary.

Subsection (b) provides for a final inspection and certification of completion of the project by the Secretary, agency, and contractor, and, where appropriate, the Indian Health Service.

Subsection (c) requires a tribal housing agency to maintain a separate account for funds disbursed to it under the project agreement.

Subsection (d) requires a tribal housing agency to put all housing units under development within one year of the execution of the project agreement or the funds for such units would be subject to recapture by the Secretary. The Secretary may extend the period of time for ninety days in certain circumstances.

Section 207

Section 207 provides that, within 120 days of the initial disbursement of funds, the agency must submit its final plans and specifications for the housing units to be developed which must include a phased construction schedule. The Secretary shall approve the plans if they meet the minimum standards established in section 3(9) and are otherwise consistent with the project agreement. The Committee amended the section to provide that the Secretary shall encourage the conservation and efficient use of energy in such housing.

Section 208

Subsections (a) and (b) provide that a tribal housing agency must secure fee title to any fee lands or a 25-year lease with option to renew for 25 years on any tribal or individual trust lands to be used as the housing site for houses developed under the project agreement. The agency must secure this interest without cost to itself.

Subsection (c) would permit the Secretary to authorize the use of project funds to acquire lands for housing development if the tribe has no suitable lands. This authority is meant to be limited to the acquisition of lands for housing purposes and only so much land as is

needed for that purpose. Land purchases should be limited to within the reservation or the service area of the BIA, except where such a limitation is inappropriate.

Section 209

Subsection (a) provides that, upon application by an eligible family, the agency and the family would enter into a housing assistance contract setting out the responsibilities of each party.

Subsection (b) provides that the family must agree in such contract that it will provide so much of its lands as is necessary for the development of the house if required by the agency; that it will make monthly payments established based upon its income; that it will accept responsibility for all maintenance and utilities; and that it will subject the trust funds of the adult members to attachment as provided in section 205. An annual review of income is required, and the monthly payment shall be adjusted upward or downward as indicated. Nothing in the subsection is meant to prevent an agency from establishing policies to allow an earlier review time.

Subsection (c) provides that, where an assisted family has fully met its financial obligations, the agency will transfer ownership of the house to the family at the end of the 25-year contract period. The underlying lands will revert to their former status. If the house is built upon tribal trust lands, the lease would expire and the lands would revert to the control of the tribe. As amended by the Committee, the subsection is intended to encourage the tribes not to deny the family owning the house the use of the housing site and, if it does, the subsection requires the Secretary, the tribe, and the family to negotiate the tribal purchase of the house at not less than the fair market value.

Section 210

Section 210 provides that the project agreement will require assisted families to make a minimum monthly payment which is to be composed of an administrative charge, a premium of insurance, and a reserve for maintenance. The Secretary and the agency will review the minimum charge which, subject to approval of the Secretary, may be adjusted upward or downward as circumstances and conditions warrant.

Section 211

Subsection (a) requires an agency to establish an account for residual receipts into which shall be deposited payments made by assisted families in excess of the minimum monthly payment.

Subsection (b) requires that the residual receipts shall be deposited by the agency in the Indian Housing Finance Fund quarterly on a fiscal year basis, but further requires that the agency must certify quarterly that it has made the necessary collections and has deposited them in its residual receipts account. Since it would be difficult to determine the family income levels at the beginning of a project, the first year requirement for deposit of residual receipts would be that amount either certified by an independent audit or negotiated by the Secretary and the agency. Thereafter, the amount required to be deposited would be based upon an independent audit of the income levels of assisted families.

Subsection (c) provides that an agency must not permit its deposits to fall below 90 percent of the amount due. If such payments do fall

below that level, the Secretary shall declare a default and institute action to make the necessary collections.

Section 212

Subsection (a) provides that the agency will be primarily responsible for the establishment and implementation of monitoring and construction inspection procedures necessary to assure compliance with minimum standards and with approved drawings and specifications. The Committee intends that the Secretary will make periodic checks of the agency's procedures and implementation and, if they are not adequate, will take steps to resolve the matter as a requirement for continuation of the project.

Subsection (b) provides that the Indian Health Service, in the course of carrying out its other responsibilities, shall be responsible for surveillance of the agencies' efforts and shall make recommendations to the Secretary based upon its findings. The Indian Health Service is responsible for providing sanitation facilities on Indian reservations and to Indian housing. In carrying out this responsibility, their engineers would have an opportunity to observe ongoing construction and inspection. This subsection is intended to permit the Indian Health Service to provide another check on adequate compliance.

Section 213

Section 213 requires various kinds of bonds and sureties in implementing a project agreement.

Section 214

Section 214 provides that, where an assisted family fails to adequately maintain a house to the extent that health or safety is impaired or the capital value of the house in jeopardy, the agency may use the reserve for maintenance established by section 210 to correct the matter. The amount contributed by a family during the 25 year period of a contract, less any amount used as provided in this section and excluding an accrued interest attributable to such contributed amount, shall be the property of the family.

Section 215

Section 215 provides that an agency shall issue contracts in accordance with procedures satisfactory to the Secretary and in a manner designed to insure judicious use of Federal funds. The Committee adopted an amendment to require Indian preference in contracts, subcontracts, and employment, but would permit the relevant tribe to waive the requirement in specific cases.

Section 216

Section 216 authorizes the purchase or sale of a house developed under this title during the 25 year period. However, the sale or purchase price must be at least equal to the amount of the principal which would theoretically be remaining on such house at the time of sale or purchase. The minimum price would be increased by the amount of any deficit a family might have in the reserve for maintenance account attributable to such family. The amount of the minimum sale or purchase price would be returned to the Fund and the balance would be the property of the family.

Section 217

Subsection (a) authorizes, if otherwise provided by existing law, the inheritance or assignment of an interest in a housing assistance contract, but requires that heirs, devisees, or assignees must agree to the terms of the contract and that an assignee must otherwise be eligible for assistance under this title.

Subsection (b) provides that abandoned houses will revert to the agency and may be made available under a new contract with a different family. Where an individual assisted under this title willfully abandons a house without making adequate arrangements with the housing agency, the Committee feels that the individual ought not be eligible for further assistance under this Act for some limited period of time.

Subsection (c) provides that no individual may be a party to more than one housing assistance contract at any one time.

Section 218

Section 218 authorizes the use of project funds to assist families in making a down payment on housing financed with private funds. The family must repay the amount within ten years. The Committee adopted an amendment which provides some discretion in whether interest is to be charged on the funds advanced and, if so, the rate.

Section 219

Section 219 provides that, if the income of an applicant family is sufficient to realistically support a private mortgage loan, such family must secure at least two bona fide rejections on loan applications for housing before becoming eligible for assistance under title II.

Section 220

Section 220 provides that funds under this title may be used to construct rental housing provided that the appropriate requirements of the Act with respect to homeowner projects shall be applicable. The Committee intends that, where the tribe opts for rental housing the tribe shall be primarily responsible for the financial obligation.

Section 221

Section 221 authorizes the appropriation of funds for fiscal years 1983-1987 to carry out the title.

TITLE III—INDIAN HOUSING LOAN GUARANTY FUND

Section 301

Section 301 establishes an Indian housing loan guaranty program to provide access for Indians living on trust lands to private lending institutions. The Committee amended the section to include tribes as eligible borrowers. This would enable tribes to seek loans to build rental or other housing for available markets on the reservation.

Section 302

Section 302 authorizes the Secretary to guarantee not to exceed 100 per cent of such loans.

Section 303

Section 303 provides that guaranteed loans will bear interest at rates agreed upon between the lender and the borrower and determined

by the Secretary to be reasonable, but not more than is being charged in the area by lenders on loans not insured or guaranteed by the United States.

Section 304

Section 304 permits the Secretary to fix premium charges on guaranteed loans to cover expenses and probable losses.

Section 305

Section 305 provides that applications for guarantees must be submitted to the Secretary for prior approval and that the Secretary shall issue a certificate of guaranty only when there is a reasonable prospect of repayment.

Section 306

Section 306 provides that a maker of a guaranteed loan can sell the loan to a financial institution subject to examination by the United States, a state, or the District of Columbia.

Section 307

Section 307 provides that loans can only be guaranteed when made by a lender subject to the same examination and to loans which mature in not to exceed 33 years; which are not guaranteed by other Federal agencies or made by an Indian tribe to its members; which provides that the liability under the guaranty shall decrease or increase as the unpaid portion of the loan fluctuate; and which is not subject to several limitations and restrictions otherwise imposed by Federal law on lending institutions.

Section 308

Section 308 provides that, where the Secretary determines that a lender or holder of a guaranty certificate fails to maintain certain minimum banking practices, he may refuse to guarantee further loans made by such institution, but must honor any existing guaranty certificates held by such lender.

Section 309

Subsection (a) provides that, when there is a default on a guaranteed loan, the lender may elect to pursue one of two options:

(1) the lender may initiate appropriate foreclosure proceedings in a court of competent jurisdiction, with written notice to the Secretary, and, upon a final order authorizing foreclosure, the lender shall be entitled to 100% of the amount due on the loan from the Secretary. The Secretary shall be subrogated to the lender's rights after payment of the guaranty.

(2) the lender may immediately seek reimbursement from the Secretary under the guaranty without foreclosure proceedings, but will be limited to 95% of the amount due.

Subsection (b) provides that the Secretary, in his discretion, may accept an assignment of the loan from a lender when it is in default if that is in the interests of the United States. The Secretary shall pay the amount due and shall be subrogated to the rights of the lender.

Subsection (c) provides that all reasonable collection efforts must be used before reimbursement is available. Upon such payment, the note must be assigned to the United States and the lender shall have no further claim against the United States.

Section 310

Section 310 provides that the certificate of guaranty shall be conclusive evidence of the eligibility of the loan for guaranty and the full faith and credit of the United States is pledged to the payment, but the Secretary shall have all the legal defenses against the original lender arising out of fraud or misrepresentation.

Section 311

Subsection (a) provides for the establishment of the Fund as a revolving fund without fiscal year limitation. The Guaranty Fund is to operate separately from the Finance Fund established by title II and the funds are not to be mixed. Sums as may be necessary are authorized for fiscal year 1983; \$2,500,000 in fiscal year 1984; \$3,000,000 in fiscal year 1985; and \$3,500,000 in fiscal years 1986 and 1987.

Subsection (b) provides that the fund may be used to guarantee loans in the aggregate amount of not to exceed \$400,000,000.

Subsection (c) defines the assets and liabilities of the Guaranty Fund and authorizes the Secretary to make agreement to service loans acquired or guaranteed under this title.

Subsection (d) authorizes the Secretary to use the Fund to make various required payments such as insurance or taxes, to acquire security property at foreclosure sales, and for administrative expenses.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401

Subsection (a) provides for the creation of an Office of Indian Housing in the Bureau of Indian Affairs to administer the program established in this Act and provides that the Director of the Office shall be under the immediate supervision of the Office of the Assistant Secretary for Indian Affairs.

Subsection (b) provides that certain basic authorities and powers created in this legislation shall not be delegated below the Office of the Director of Indian Housing.

Subsection (c) provides that the employee and administrative costs of the Office shall be appropriated under authority of this Act and shall be separately set out in budget requests to the Congress. In addition, funds appropriated under authority of this Act may not be used for any other purposes.

The Committee has adopted these provisions to insure that the Bureau of Indian Affairs, in the operation of the Indian housing program, is more closely accountable to the Congress for the use of funds appropriated and for the implementation of the programs. In addition, the Committee feels that these provisions will make the BIA, in carrying out the housing program, more responsive to the needs and concerns of the Indian tribes and people.

Section 402

Section 402 authorizes the Secretary to provide training and technical assistance to Indian tribes and assisted families under this program, using not to exceed one percent of the funds authorized under the Act. The Committee expects that the Secretary, acting directly

or through tribal housing agencies, would establish a strong program for providing assisted families with basic home maintenance courses and training.

Section 403

Section 403 provides that the Indian Health Service in the Department of Health and Human Services will continue to be responsible for providing sanitation facilities for housing constructed with funds under this Act. The Committee amended this section to insure that the Secretary of the Interior and the Secretary of Health and Human Services closely coordinate their efforts in this regard to insure that planning and appropriation requests for housing under this Act are complemented by planning and appropriation requests for necessary sanitation and road facilities to serve such housing.

The Committee has rejected proposals that the sanitation responsibilities of the Indian Health Service be transferred to the Bureau of Indian Affairs. While such a transfer might have a short-range benefit by achieving greater administrative efficiency, it would be short-sighted. The Indian Health Service is charged with providing health care to Indians on the reservations and eliminating the great disparity in the incidence of disease among Indians having environmental causes. The responsibility to provide sanitation facilities on Indian reservations is primarily a health function and should remain with the agency responsible for health care.

Section 404

Subsection (a) provides that, within multi-unit housing projects, site-improvements, streets, and driveways shall be funded with project funds and shall be consistent with general BIA standards.

Subsection (b) simply makes clear that all-weather access roads to such projects will continue to be the responsibility of the Bureau of Indian Affairs out of existing authorities and appropriations.

Section 405

Section 405 requires the Secretary to conduct and submit to the Congress a biennial housing inventory on current Indian housing needs and conditions.

Section 406

The Secretary shall prepare and submit to Congress, within two years, a study of how Indian trust funds, directly or indirectly, may be used to support housing for Indians and Alaska Natives. Any recommendations made by the Secretary must take into consideration the need for Indian consent and the need to insure the integrity of such trust funds.

Section 407

Section 407 provides that the Secretary shall promulgate such rules and regulations as are necessary to carry out the provisions of this Act.

Section 408

Section 408 provides that Indians and Indian tribes shall not be excluded from being eligible for participation in other Federal housing programs by the terms of this Act.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11 of Rule XXVI of the standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill.

Passage of this legislation will substantially improve the quality of housing available to approximately 5,000 American Indian families annually. Indian tribes, tribal housing agencies, private contractors, building materials suppliers, and lending institutions will be affected by the large-scale construction program proposed in this legislation. The beneficial economic impact that this legislation will offer to the Indian families is extended to the contractors, materials suppliers, and lending institutions who have suffered greatly because of the depressed housing industry.

Other than requiring the disclosure of family income to determine program eligibility, passage of this legislation will have no impact on the personal privacy of the affected individuals.

Regulations will be promulgated pursuant to the enactment of this legislation into law. However, it is not expected that the additional paperwork and/or regulatory requirements resulting from these regulations will be greater than for the current HUD Indian housing programs.

EXECUTIVE COMMUNICATIONS

Although the Select Committee on Indian Affairs received no formal communications from the Administration on S. 2847, the following information was received through committee hearings. The HUD public assisted housing program, including the Indian housing program, has been targeted for termination by the Administration. The Administration has charged that the HUD program, specifically the Indian section, is excessively costly, and should be terminated. Consequently, the Administration has requested no money for fiscal year 1983 for the HUD program. It should also be noted that although the Administration requested no funds for fiscal year 1982, Congress, nevertheless, provided funds to construct 4,000 units. The HUD Appropriations Bill, as passed by the Congress this week, provides no funds for Indian housing in fiscal year 1983. There will be no fiscal year 1983 appropriations made available until a housing authorization bill is signed into law for Indian housing and other assisted housing programs.

At budget oversight hearings before the Select Committee on Indian Affairs conducted March 1, 1982, Administration witnesses stated that an alternative to the HUD Indian housing program was definitely needed and that one would be forthcoming within two weeks. To date, the Administration has failed to present Congress with any such proposal.

At hearings on S. 2847, on September 22, 1982, the Administration testimony presented no specific views on the bill, but insisted that any Indian housing legislation fulfill eleven criteria. Administration witnesses conceded that S. 2847 met most of those criteria. At those same hearings, HUD witnesses took no specific position on S. 2847, but continued to maintain that an alternative Indian housing proposal would be forthcoming in the Administration's fiscal year 1984 budget request.